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CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR.

O.A.NO. 637/39 : Date of decision: 15.7.93

H.P.Meena : Applicant.

Applicant present in person.

VERSUS

U.O.I. & Ors. : Respondents.

Mr.U.D.Sharma : Counsel for the respondents.

CORAM:

HON'BLE MR. B.B.MAHAJAN, ADMINISTRATIVE MEMBER

HON'BLE MR. GOPAL KRISHNA, JUDL.MEMBER

PER HON'BLE MR. B.B.MAHAJAN, ADMINISTRATIVE MEMBER

Shri H.P.Meena has filed this application under Sec. 19 of the Administrative Tribunals Act, 1985, against order dated 27.7.89 (Annex.A-1) by which he was asked to vacate his quarter and order dated 23.8.89 (Annex.A-2) by which the recovery of rent at damaged rate of Rs. 1252-80 per month from 26.7.89 on account of unauthorised occupation of quarter was demanded.

2. The applicant is a member of the IGT Accounts & Finance Group-A Service. When Ministry of communication was bifurcated into two departments

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viz Department of Posts and Department of Telecommunications it was decided that P & T Accounts & Finance Service Group-A will continue to function for both the Postal and Tele-communication Departments vide (Annex.A-3). The applicant was initially appointed as Deputy Director Postal Accounts, Jaipur on 31.10.38. He was allotted a quarter. Vide order dated 11.5.39 (Annex.A-5), he was transferred as Chief Accounts Officer Raj. Telecom Circle, at the same station. Vide the impugned order dated 27.7.39 (Annex.A-1), he was informed that as per existing rules he can retain the quarter upto 25.7.39 i.e. for a period of 2 months after he takes over as Chief Accounts Officer in the Telecom Deptt. and that he would be treated as in unauthorised occupation of the quarter w.e.f. 26.7.39. The applicant replied to this letter on 2.8.39 (Annex.A-6) stating that the P&T Accounts and Finance Group A service is a common Cadre for Postal and Telecom Departments and therefore, he was eligible to retain the quarter till he continued to work at Jaipur. It was suggested therein that in case of any doubt, the matter may be clarified from Department of Telecom or alternatively one type-IV quarter belonging to Telecom Deptt. may be got transferred to postal Department. Therefore, by impugned order dated 23.3.39 (Annex.A-2), the applicant was informed that he is in unauthorised occupation of the quarter w.e.f. 26.7.39 and the recovery

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of rent on damaged rate of Rs. 1252-30 per month from 26.7.89 was ordered to be recovered from him. By the interim order of the Tribunal dated 17.10.89, the respondents were directed not to effect recovery of damaged rent for the quarter till next date. The interim order was extended till further orders on 19.1.90.

3. We have heard the applicant and the learned counsel for the respondents. The applicant has referred to Rule 12 of the Rules for allocation and allotment of quarters, filed by him alongwith the rejoinder. Rule 12 reads as under:

The unit/arm is defined in Rule 1 (v) as meaning " administrative unit at same station. For example RMC Calcutta and G.M.T. Calcutta." In accordance with these rules, allotment of the quarter could not be disturbed on his transfer from the postal to the telecom side at the same station.

The learned counsel for the respondents has stated that these rules were framed in 1966 when the Department had not been bifurcated. He has referred to para. 4 of the reply, in which it has been stated that the allotment of accommodation is made on functional basis, so that an officer

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performing the functions pertaining to the Department of posts is allotted accommodation from the postal pool of accommodation and the officer performing the functions pertaining to the Department of Telecom is allotted accommodation from that pool. It has been added that this principle is made applicable even in case of a service common to both the said departments. No instruction or rule has been cited in support of this assertion. The learned counsel for the respondents has also not been able to cite any rule or instructions which may have provided that even in respect of service which is common to both the departments allotment of quarter would/^{stand}~~stood~~ cancelled on transfer of an officer from one department to another at the same station. Since the service to which the applicant belongs is admittedly common service for both the Postal and the Telecom Departments it would obviously be unreasonable to require an officer in occupation of Govt. accommodation from one department to vacate it when he is transferred to the other Department at the same station. Being in common Cadre, he is liable to be transferred from one Department to the other and merely as a result of such transfer he cannot be asked to vacate the accommodation allotted to him when the transfer is at the same station. The action of the respondents in treating the occupation of the applicant after 26.7.89 as unauthorised and accordingly to recover damaged rent from him, was thus not supported by any rule and is unreasonable.

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4. The applicant states that he has already vacated the quarter in question on 2.6.93 on allotment of the quarter by Telecom Department.

5. In view, of the above, we allow this application and quash the orders at Annexure.A/1 dated 27.7.89 & Annexure.A/2 dated 28.8.89 and direct that only normal rent shall be charged from the applicant for the period from 26.7.89 till he remained in occupation of the quarter in question. He shall be paid Rs. 500/- as costs by the respondents..

GKrishna
(GOPAL KRISHNA)
Judl.Member

B.B. Mahajan
(B.B. MAHAJAN)
Adm.Member

Anil